

# Clarke County

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Planning Commission  
**Regular Meeting Minutes**  
November 1, 2013



A regular meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, November 1, 2013.

## **ATTENDANCE**

George L. Ohrstrom, II, Chair; Anne Caldwell, Vice Chair; Robina Bouffault, Clay Brumback, Scott Kreider, Doug Kruhm, Tom McFillen, Cliff Nelson, Chip Steinmetz and Jon Turkel.

## **ABSENT**

John Staelin

## **STAFF**

Brandon Stidham, Planning Director; Jesse Russell, Zoning Administrator; Alison Teetor, Natural Resource Planner and Debbie Bean, Recording Secretary.

## **CALLED TO ORDER**

Chair Ohrstrom called the meeting to order at 9:00 a.m.

## **APPROVAL OF AGENDA**

The Commission voted to approve the agenda.

**Yes:** Bouffault, Caldwell (seconded), Kreider, Kruhm, McFillen Nelson (moved), Ohrstrom, Steinmetz and Turkel

**No:** No one

**Absent:** Brumback and Staelin

Commissioner Brumback arrived at the meeting.

## **APPROVAL OF MINUTES**

The Commission voted to approve the briefing meeting minutes of October 1, 2013.

**Yes:** Bouffault, Brumback, Caldwell (moved), Kreider, Kruhm (seconded), McFillen, Nelson, Ohrstrom, Steinmetz and Turkel

**No:** No one

**Absent:** Staelin

The Commission voted to approve the regular meeting minutes of October 4, 2013.

**Yes:** Bouffault (seconded), Brumback, Caldwell, Kreider, Kruhm, McFillen, Nelson, Ohrstrom, Steinmetz and Turkel (moved)

**No:** No one

**Absent:** Staelin

The Commission voted to approve the special meeting minutes for October 17, 2013 on the Comprehensive Plan.

**Yes:** Bouffault (moved), Brumback, Caldwell, Kreider, Kruhm, McFillen (seconded), Nelson, Ohrstrom, Steinmetz and Turkel

**No:** No one

**Absent:** Staelin

The Commission voted to approve the special meeting minutes for October 17, 2013 on the Transportation Plan.

**Yes:** Bouffault, Brumback, Caldwell (seconded), Kreider, Kruhm, McFillen (moved), Nelson, Ohrstrom, Steinmetz and Turkel

**No:** No one

**Absent:** Staelin

### **SPECIAL USE / SITE PLAN (SUP-13-02/SP-13-08) – PUBLIC HEARING**

**Gina Schaecher (Happy Tails Development, LLC) requests approval of a Special Use Permit (SUP) and Site Plan to construct a commercial boarding kennel and animal shelter per §3-A-1-a-3(u) of the Zoning Ordinance. The facility would provide rescue and rehabilitation services for the purpose of finding permanent adoptive homes for dogs, and would include boarding and training for dogs. The property is identified as Tax Map #20-2-9, located in the 300 block of Bellevue Lane in the White Post Election District and is zoned Agricultural Open-Space Conservation (AOC).**

Commissioner Nelson recused himself from this request due to conflict of interest.

Mr. Stidman gave a power point presentation and discussed the update of the unresolved issues with the proposed request. He stated that the applicant provided a supplementary letter on October 30 and materials on October 31 in an effort to address these issues. He said that a copy of the letter and the materials have been provided to the Planning Commission for their review. He said that staff had requested VDOT to review the Applicant's proposal and to identify where there would be any impacts to the existing Bellevue Lane commercial entrance onto Old Winchester Road that would require improvements. He explained that VDOT sent Staff a letter via e-mail indicating that the proposed use would not impact the existing commercial entrance and that VDOT had no outstanding concerns with the Applicant's proposal.

Mr. Stidham mentioned that a discrepancy was noted between the "Septic Computations" note shown on the site plan, which indicated a design of 25 gallons per day per employee, and the AOSE design which indicated that the system would handle 20 gallons per day per employee. He said that the Applicant's engineer has provided a revised plan sheet reconciling this discrepancy by correcting the 25 gallon per day figure in the "Septic Computations" note. He stated that a question was raised regarding whether the maximum number of employees would exceed the septic system's capacity. He explained that Staff noted that the system is designed for 250 gallons per day of waste water – 150 gallons per day would be used by the one bedroom house and each employee would use 20 gallons per day based on the Applicant's AOSE design. He said that the Applicant previously indicated a maximum of nine employees that would produce 180 gallons per day. He stated that this would produce a total of 330 gallons per day which is 80 gallons per day over the system design. Mr. Stidham said that the Applicant provided a clarification in her October 30 letter indicating that a maximum of nine employees have committed to working at the facility but that a maximum of five employees would be working during each shift. He said that by limiting the maximum

number of employees per shift to five would match the 250 gallons per day system design. He stated that Staff has amended the language on Condition #5 to address this issue and staff has no further concerns.

Mr. Stidham said that the Applicant's previous site plan submission provided a photo of a proposed spotlight-style outdoor wall fixture that does not meet the Zoning Ordinance requirements for outdoor lighting. He stated that the Applicant provided a photo and specifications of a substitute wall fixture in the October 30 letter as well as a revised plan sheet detail on October 31. He said that after reviewing the substitute wall fixture it was discovered that it did not meet the outdoor lighting requirements. He stated that Staff spoke to the Applicant and engineer about this issue and it was requested that a compliant fixture be submitted. He mentioned that Staff also advised the Applicant to include the language from the Zoning Ordinance in the "Lighting Detail" note on the site plan sheet.

Mr. Stidham turned the meeting over to Mr. Russell to discuss the site plan issues.

Mr. Russell stated that Staff has been waiting for answers to several outstanding items from the last meeting. He said one concern is the impact to the Bellevue Lane commercial entrance onto Old Winchester Road that would require improvements. Mr. Russell said that Bobby Boyce with VDOT provided staff a letter indicating that the proposed use would not impact the existing commercial entrance and that VDOT has no outstanding concerns with the applicant's proposal. He said that the septic system notes discrepancy/number of employees issue has been addressed and the applicant's engineer has provided a revised plan sheet showing the correction in the "Septic Computations" note. He said that the Health Department agreed with the applicant's numbers. Mr. Russell said another issue is the outdoor lighting. He said that the applicant's previous site plan submission did not meet the Zoning Ordinance requirements. He stated that the applicant submitted a substitute wall fixture but it also did not meet the Zoning Ordinance requirements. He said that Staff has advised the applicant to include the language from the Zoning Ordinance in the "Lighting Detail" note on the site plan sheet. He said that the applicant is going to revise the site plan sheet with the correct lighting required by the County Ordinance. Mr. Russell also said that there were concerns with landscaping. He explained that this property is ninety-one acres and that there are deciduous trees planted along the property line and some areas have gotten thin. He stated the requirement is one evergreen tree for every 10 feet. This is needed along the northern property line. He said that the applicant has agreed to plant evergreens in this area and will show this on the revised site plan. He said that Staff is working with the applicant on the landscaping issues at this time.

Mr. Stidham addressed the Commission again and said that Staff made a site visit to the proposed area. He showed the photos that were taken at the time of the site visit showing where the proposed kennel will be located on the property. He showed a picture of where Mr. and Mrs. Robert Sell live and where the evergreens will need to be planted near their property. He showed a picture of the proposed entrance which is mostly dirt and mentioned that the Applicant will be updating the road. He went over the proposed conditions for the Special Use Permit (SUP). He said that the SUP will not be transferable to any other entity without prior approval from the Board of Supervisors as an amendment to the SUP conditions. He stated that Staff is requesting a deferral for one month to the December 6 Planning Commission meeting to finalize all the issues.

Chair Ohrstrom asked the Commission if they had questions for Mr. Stidham.

Commissioner Bouffault had questions on some of the conditions Mr. Stidham spoke about. She asked Mr. Stidham about dogs that are brought in to the facility for special events and if those dogs will be confined

subject to the same conditions as the kennel dogs. Mr. Stidham stated that would be something we would have to clarify in the conditions. Commissioner Bouffault questioned the training classes and asked about the difference between people training and dog training. She also asked about all solid waste versus liquid waste and she said that they are two different issues. She said you have the septic system for people which includes a bathroom in the kennels which she presumes goes into the septic system and drainfield and then all the liquid and solid waste for the dogs goes into a separate dog waste holding tank. She stated there is no distinction made. She said perhaps you could put in the conditions that there are no open floor drains in the kennel and that would exclude the bathroom. Mr. Stidham said it would solve the problem if we added language that said "*all the waste and waste water produced by the dogs*" would clarify the language and Commissioner Bouffault agreed.

Commissioner Kruhm said he needs some background on an application the Commission heard back some time ago when the Monastery had concerns about a golf course clubhouse going in at the Shenandoah Retreat and there would be wedding events with music playing. Mr. Russell said that they did do testing on the noise level for that application. Commissioner Kruhm questioned the results of the testing. Mr. Russell said they were able to monitor the decibel level with that situation whereas with dogs it would be difficult to know when and if the dogs are going to bark. Commissioner Kruhm asked if, in doing that testing, was there ever a definition of undue noise. He had questions regarding the undue noise issue this application may bring us.

Commissioner Steinmetz asked how do we measure waste from forty dogs vs. a house and how much waste will come out.

Gina Schaecher, Applicant, addressed the Commission. She said she brought in some individuals who will be working at the proposed facility and they would be able to answer questions from the Commission regarding what will be involved with the dogs at the proposed facility. She informed the Commission that she has consulted an electrical engineer and she assured the Commission that she can comply with the Zoning Ordinance on the type of lighting fixtures that are required. She addressed the issue about landscaping and said they have included additional evergreen trees on the revised site plan she presented today. She spoke about the training classes as there are concerns about them. She said the training classes are for humans and they will be small classes that last for two days in which the participants will learn to massage dogs. She said the people will bring their own pets to do the training. She mentioned that she has had classes at her existing facility in Loudoun County. She said that all the classes that she offers are to educate humans on how to properly care for a dog. She mentioned that these are the types of classes she anticipates having at the proposed shelter. She went on to say that she has signatures from over 200 people on a petition in support of this request which she will provide to the Commission.

Ms. Schaecher emphasized that the dogs will only be outside during the allowed times as shown in the Clarke County Zoning Ordinance. She also noted that not all 40 dogs will be out at the same time and that she has provided a written document regarding undue noise which has been provided to the Commission. She wanted to answer the concerns regarding the Great Pyrenees' breed and has brought individuals today who are knowledgeable about that specific breed. She also wanted the Commission to know that any waste from the kennel will be captured in a separate tank. She explained that they are not looking at solid waste being put into the septic system. She asked the Commission if they had any questions.

Commissioner Bouffault questioned Ms. Schaecher about the narrative she wrote dated October 15 in

which says that she and her husband have fostered and re-homed hundreds of dogs over the past eleven years as rescue foster guardians. Commissioner Bouffault asked Ms. Schaecher what percentage of these hundreds of dogs were Great Pyrenees. Commissioner Bouffault also asked Ms. Schaecher what percentage of the 40 dogs at the proposed facility will be Great Pyrenees. Ms. Schaecher said that most of the hundreds of dogs they have re-homed in the past have been Great Pyrenees because that is where their expertise is. She said as far as the proposed kennel she anticipates two to three slots for Great Pyrenees and all other dogs would be a variety of breeds.

Commissioner Turkel had concerns about the resiliency of the in ground septic system. He stated that with the occupancy of the dwelling and the employees it seems like the system is pretty much at its capacity of 250 gallons a day. He asked if the system is at capacity, how it will handle special events and training classes. He said it appears that some sort of accommodation for toilet facilities needs to be available if the need arises. Ms. Schaecher said that portable toilets are provided in a situation like that. She said it is her understanding that they would not be anywhere near going over capacity even with these events taking place. She said since these events are only held occasionally and she did not see how it would cause the system to be over capacity. She said that she will ask Jim Slusher, Soil Scientist, to look into the matter.

Vice Chair Caldwell asked for specific times for the proposed training classes and events. Ms. Schaecher said in the past there have only been one or two events a year and it is by invitation or reservation only. Chair Ohrstrom asked if the Applicant would be willing to go on record by submitting the number of training classes in writing that she is expecting to have each year. Ms. Schaecher said it would not be a problem.

Commissioner Steinmetz asked Ms. Schaecher if she has received any comments from citizens about the proposed kennel. Ms. Schaecher said she has seen one letter but that she has not seen the four e-mails that were mentioned earlier. Mr. Stidham said that the four e-mails came in last night. Commissioner Steinmetz stated that it appears the main problem is the lack of trust from the neighbors. He told Ms. Schaecher that the event she held at her home for the neighbors to allay their concerns seems to have had the opposite effect. He asked Ms. Schaecher if she could address this perceptible disconnect that appears to be going on. Ms. Schaecher said she could specifically address whether there have been any changes to the plan and the answer to that is no. She said that in late September she invited the adjoining landowners to the property to review the plans and to witness the staked area for the proposed construction. She said she encouraged them to ask questions and to look at the plans. She said everything she has proposed is what they plan to do. Commissioner Steinmetz asked if she concurs with Staff to continue the public hearing until next month. She said she does not because she believes that the outstanding information will not take long to review and she would ask that the Commission move forward.

Commissioner Bouffault said that at the Planning Commission meeting in September, Ms. Schaecher told the Commission that this proposal was going to be a kennel for boarding and training dogs for private individuals for a period of thirty days. She said at the October meeting the Commission received a narrative prepared by Ms. Schaecher and it mentioned having training classes and special events. Commissioner Bouffault stated that the scope of the proposal has changed since it was first heard. Ms. Schaecher said she disagrees with that and said that there may have been a change of perception but the scope of the proposal has remained the same. Ms. Schaecher said the only reason they do training classes and special events is for community out-reach programs.

Commissioner McFillen asked Ms. Schaecher about her current facility and how long she has been there.

She said she has been there nine years and she has only had a couple of complaints. She said her current facility is 23 acres and that both of her adjoining property owners are at the meeting today. Commissioner Mcfillen asked if she takes in litters. She said she does not do that very often.

Commissioner Brumback asked if at their current facility there were any restrictions on their kennel permit. Ms. Schaecher said no there are not.

Commissioner Bouffault asked Ms. Schaecher if they have a kennel permit. Ms. Schaecher said no they do not.

There being no further discussion with Staff and the Commission, Chair Ohrstrom opened the public hearing. He said that he would call each person's name from the sign-up sheet and that each person would have three minutes to talk. He asked that each person state their name and address before talking.

Mary Schaecher, 221 River Park Lane, Bluemont, VA, stated that her area of expertise for this project is that she has an extensive background in veterinary medicine. She said that she has worked with animals for twenty years and nine years of that time was in animal control in Nebraska. She stated that there is a real need for rehabilitation of aging animals as well watching over animals after a surgical procedure during their recovery. She said should an event arise where an animal would be injured, she would be able to care for the animal on site.

Rhonda May, 305 Bill Brower Court, Purcellville VA, stated that she is a dog trainer and that she has worked with dogs extensively for the last fifteen years. She said that she specializes in working with aggressive dogs. She explained that most dogs need room and education to thrive and that is what is so great about this proposal because it will provide for both of these needs. She remarked that most people are concerned with stress barking and that is caused by dogs not knowing what is going on. She stated that if you teach a dog what the rules are and work with them and you exercise their body and mind you will not have stress barking.

Bob Schaecher, Omaha, Nebraska, said Gina Schaecher is his daughter. He said the reason he is here is that they want to put in a dog facility. He stated that he is not going to talk about the dogs he is going to talk about the people. He said that he knows most of the neighbors and that they are nice people. He explained that they want to be good neighbors and that they need everyone to work with them not against them.

Carl Hales, one of the owners of the property under consideration, said they purchased this property in 2006 and they have had the property for a number of years and it is now for sale. He said they believe the applicant has justified the Special Use Permit and they would appreciate your consideration of it. He stated that he and his wife live in Frogtown on eighty-seven acres and they have a kennel and they have not had any problems with their dogs on that property and they take the solid waste to Frederick/Clarke County Sanitation facilities as required. He said they do appreciate the concerns but if the applicant has met all that is required for the Special Use Permit then they should be issued a Special Use permit. He said that the County has done due diligence with this request and they have really worked with the applicant to get the information needed to make a proper decision. He stated that failure to approve this request would be sort of a taking of our property without compensation. He said the property is farm land and he thinks that a lot has gotten lost in this proposal because of the attention to the kennel. He said he believes this request will make a great contribution to the County.

Mike Williams, 15268 Shannondale Road, Purcellville, VA, said that Gina Schaecher is his spouse and he is here to support this project. He said their goal is to buy this ninety-one acre property and to develop it as a farm. They plan to take less than 2% of the land for an animal rehabilitation center. He said he thinks that all the focus is on the kennel but they want to buy the land and farm it. They want to use sustainable and responsible practices and they want to be good neighbors. He said they take dogs from local humane societies and shelters and whenever Loudoun County gets a Great Pyrenees they will call them and ask if they can help them out. He said they think this is a good thing and that they are trying to do the right thing. He said that they have requirements and they must have a fence and they are going to put up two fences. He said they have to be 200 feet from the property line and they decided to be 500 feet away from the property line with double fences. He said that this is for their protection, the protection of the animals and the protection of the neighbors. He said they are not taking chances and they are not at the limit of anything. He said he spoke to their site planner who reminded him that their septic build is designed for a four bedroom perk, 600 gallons per day and they are using about 250 gallons per day. He said their soils engineer has looked at this and said that they are at about one-third of the capacity of the septic field. He said it is their right as farmers to have cows, pigs and dogs running and barking all night right up to the property line twenty-four hours a day, seven days a week. He explained that their dogs will not be doing that. He said the dogs will be controlled, exercised, and supervised and they are going to be inside at night. They are going to build a solid concrete structure and once the dogs are inside at night you will not be able to hear them barking. He said it is going to look like a barn and they have done everything they can to be consistent with the neighborhood and with the VOF. He said that they have been working with the County on this project close to six months and they have been involved in every step of the way. He explained that they have been letting the neighbors know what they are doing. He said he visited the site the other day with Kevin Miller, the acoustic engineer for the project and helped him conduct the sound test. He said they had six crazy barking dogs where the proposed building will be and they went to the property line of Robert and Elizabeth Sell and the property line to the east and they found that six barking dogs were at 38 decibels which is dramatically below the 70 decibels limit at the property line per the ordinance. He said the dogs on the property line of Mr. & Mrs. Sell were at 50 decibels, the cows were at 55 and airplanes overhead were at 72 decibels. He said in conclusion the noise from their dogs at the property line will not be the loudest dogs barking it will be their neighbors' dogs. He said in keeping with the spirit of Clarke County they are going to do everything they can to be consistent with that. They submitted this application to the County 89 days ago and the 100 day mark will be in two weeks and they would appreciate the Commission's help and consideration to move this project forward.

Mary Jo Walpole, 15219 Edgegrove Road, Purcellville, VA, said she is retired law enforcement and her dream was always to have a farm. She said two and a half years ago she moved next to Gina Schaecher and Mike Williams. She said that when she first moved to the property the owner of the property told her that she might have a problem with barking dogs as her neighbors Gina Schaecher and Mike Williams ran a Great Pyrenees rescue. She said at the time she was still working and had concerns with the barking dogs because she was on shift work and sometimes had to sleep during the day. She explained that she understands how the neighbors feel about this proposal because she felt the same way when she moved to her farm. She said that she wants to speak as a character witness for Gina Schaecher and Mike Williams as they maintain their property well and they do not allow their nine dogs to bark. She stated that in the two and half years she has lived beside them she thinks the dogs have only barked a couple of times. One time there was an incident in the area involving a helicopter, patrol cars, bright lights and policemen in the neighborhood. She mentioned that there is a difference between a guard dog and a guardian dog. She said that guard dogs are watchdogs whereas guardian dogs are livestock dogs and they are very low keyed dogs for guarding the herd.

Kathi Colen Peck, 196 Bellevue Lane, Boyce, VA, said she is one of the adjoining neighbors. She said that she lives there with her husband, her son and her two dogs. She said she is here to express her strong opposition to granting this Special Use Permit to establish a commercial kennel business on Bellevue Lane in an agricultural zone. She and her husband have three significant concerns. She explained that the proposed building site for the kennel is at the highest elevation point in the neighborhood and a feature that will readily facilitate the sound of barking dogs downhill to the neighboring properties, one of which is theirs. She said a second concern is the constant traffic on Bellevue Lane, a private one lane road which connects the existing four families to their homes, one of which is theirs. She said there will be a decrease in property values to the surrounding properties due to this proposal. She stated that because the proposed building will be built at such a high elevation sound, particularly barking, will carry exceptionally well to the surrounding residences in their neighborhood. She wanted to point out that, depending on the cast of the wind and circumstances in that location, she can often hear someone talking at a regular volume from that site in her house. She said that the pictures that were shown earlier in the meeting did not show a picture of their house which is in direct line of sight and sound. She explained that this is a great concern to her because the potential for forty-three dogs residing at this facility will most certainly result in a clear and unobstructed channel of noise directly into their home. She said that she works from home and she is very intimately aware of how sound travels in that particular location and it is a high point. She said that Happy Tails Development is proposing to board and care for rescue dogs. She said she also wanted to point out that Bob Schaecher, the parent of Gina Schaecher the applicant, came to her house and specifically told her there would be twenty dogs, not forty dogs, not forty-three dogs, but twenty dogs. She said that she does not contest the vision for this type of operation but she does contest the location of this proposed commercial site. She said it is upsetting to her that such an operation like this would come to an agricultural area. She also wanted to point out that the Applicant has no intention of living on site so she does not have to deal with forty-three dogs which may or may not be out in the runs at any one particular time. She submitted a letter of opposition from her and her husband on this request to the Chair.

Greg Peck, 196 Bellevue Lane, Boyce, VA, Assistant Professor of Horticulture at Virginia Tech, one of the adjoining neighbors, said he was going to continue with the two remaining issues his wife spoke of earlier. He said that the second issue is the traffic that will impact Bellevue Lane. He explained that the commercial kennel operation is going to significantly increase traffic on Bellevue Lane making it unsafe for their children, their pets, and all the residents connected by this road. He stated that Bellevue Lane provides access to the ninety-one acre property from Route 723 through an easement, but the intention of such access was to grant it with one prospective residence and corresponding agricultural activity on the ninety-one acre parcel and it was not intended to allow continued vehicular traffic on a daily basis for a non-agricultural commercial business. He said that the cumulative negative impact from the daily commuting of nine employees and an unspecified number of volunteers, the frequent pick-up and drop-off of up to 40 boarded dogs, hauling liquid and solid waste several times a week if not daily, the delivery of kennel supplies, and the planned events that may potentially attract over 100 people, will be far greater than what was originally intended for Bellevue Lane. He stated that a commercial dog kennel business, which in itself is not an agricultural enterprise, will surely put undue wear and tear on their one-lane road with its constant use. He said that there are few easily accessed turnouts that can accommodate vehicles travelling in opposite directions on the road and since it is a private road, law enforcement agencies will not enforce a speed limit that would keep drivers at a reasonable and safe speed for their neighborhood. He stated that they strongly believe that the County should not grant a Special Use Permit on the ninety-one acre parcel and turn Bellevue Lane into a driveway for a commercial dog kennel. He said the third issue is regarding their property values. He said that they bought their home two years ago after doing research on the development



parameters of the adjoining properties, learning as much as they could about the easements and building rights on these properties. He explained that they chose their property because it met the criteria they set for what they wanted: high quality schools, agriculturally zoned, minimal potential for encroaching development with the neighboring properties protected by easement, and affordability. He remarked that they have painstakingly been updating their home to increase its value and bring it up to 21<sup>st</sup> century standards. He expressed that by granting a Special Use Permit and allowing a commercial kennel operation into their neighborhood, the county would, in effect, swiftly and unequivocally take away any gains in property value they have made to date. He urged the Commission to decline this application. He provided a letter expressing his and his wife's opposition to this request.

Phil Jones, 735 Morning Star Lane, Boyce, VA, stated that in addition to the property on Morning Star Lane where he lives he also owns the largest lot in the area (Lot 1- 130 acres) that directly adjoins the property for the proposed kennel. He said one thing he wants to make clear in the Staff's comments under Item E, is a letter from VOF that states this proposal is all well and good. He said that comment is being officially challenged by himself. He said that there has been correspondence going back to VOF from himself respectfully asking that they provide a new opinion regarding this proposal. He stated it is his understanding that they are going to do so. He explained that the site plan has changed dramatically since it was first provided and the intended use has changed. He thinks this proposal needs to be delayed until VOF has a chance to weigh in on it. He said that during the day he wears a suit but at night he is an active farmer. He stated that he and his son do cattle farming and do their own hay on this property. He remarked that he and his son have done significant improvements on this property since he purchased it. He purchased this land thinking that it was farm land not a dog rescue sitting on top of a high hill with barking dogs. He said that under Item S on the Staff's comments it states that this proposal will not have any visual impact to anyone. He said it will look straight at his barn door/shop area and that is where they do all their activity for the farm. He mentioned that a few nights ago his son was washing his truck out at the barn and there were two dogs outside and his son said they barked the entire time he was out there. He said that he wants to remark on several of the comments made today. He said that he finds it a little bit disingenuous that these people talk about being neighbors when they have no intention of living there. He stated that in looking at the plans he did not see any indication that it will be farmed. He explained that he has put a lot of work into his farm and he has spent a lot of money and he wants to keep it that way.

Howard Lewis, 34508 Bloomfield, Bluemont, VA, stated that has known the Applicant for a number of years. He has no doubt that they will do a good job in implementing whatever plans the Commission want them to do. He said he is sure that the applicants will be good neighbors. He said that there was a letter brought to his attention about the Great Pyrenees being aggressive dogs. He said that in his experience in working with the Appalachian Great Pyrenees rescue that is just not the case. He said a test for the Commission would be to come to the Middleburg Christmas parade on the first Saturday in December. He stated that last year they had 100 Great Pyrenees in the parade and that they were gentle giants. He said the people were even allowed to pet the dogs. He said as a final point there is a pressing need for this type of facility in this area and the applicant does work with county animal shelters. He urged the Commission to move forward with this application.

Chris Keyser, 2665 Gun Barrel Lane, White Post, VA, he said he lives on seven and half acres, zoned rural residential and his immediate neighbors include an auto repair shop, a metal welding business including trucks, trailers and construction machinery, a street sweeping business, two landscaping businesses, a cabinet making business, a sawmill, two heavy hauling businesses with dump trucks and two eighteen

wheel tractor and trailers, two general contractors with heavy construction equipment and the loudest of all these businesses are the donkeys across the street. He said he is not complaining about the businesses or the donkeys that are on his neighbor's property. He stated that we advertise our County as an agriculture rich community which we are, but we are also a well-balanced community with many other family businesses that make up Clarke County. He said he has owned eight rescue dogs and he has contributed food and cleaning supplies to the local shelter. He said he has called the Clarke County Dispatch more times for livestock in the road than dogs. He remarked that his dogs have visited and stayed the night at 3 Dog Farm and the place was always clean and well-kept and his dogs came home with a bath. He said with the ever increasing presence of coyotes in the area this proposal should be looked upon as favorable as the Great Pyrenees help keep coyotes away. He said he would like another option of protecting his family and pets from coyotes other than grabbing a fire arm. He said although his opinion may be different than his friends and neighbors he supports Happy Tails Development.

Susan Moulden, 1 Morningstar Lane, Boyce, VA, said she has a couple of questions for the owners. She asked if they are planning on living at the farm. Gina Schaecher stated that her sister will be living on the farm. Ms. Moulden asked about the petition for support and do the signers live in this area, Ms. Schaecher said that some of them do. Ms. Moulden asked about training dogs not to stress bark and how long does that take. Ms. Schaecher said that they are relieving stress in the dogs and therefore it stops the barking. Ms. Moulden asked if the dogs will be contained most of the time. Ms. Schaecher said the dogs will always be contained within the facility but will be with a human being either doing a mental exercise or a physical challenge or having a rest break. Ms. Moulden said she is opposed to this and is very concerned because she wants peace and quiet and does not want to listen to barking dogs. She asked if this is an agricultural district and if dogs are considered livestock.

Melanie Freedman, 101 Goode Lane, Harpers Ferry, WV, she said she is a professional dog trainer. She said she has trained dogs for a number of years, has rescued dogs and worked in a number of shelters. She said what this Happy Tails Development is proposing is really needed. She said she cannot begin to tell you the number of dogs that have been put down because they are in a shelter and because nobody wants them. She said that dogs bark when they are stressed, bored or when they do not have anything to do. She said she lives next door to two Great Pyrenees and as long as they have a job to do they will not bark. She said if a dog has a job to do and are not stressed they will not bark. She added that in her years of working in shelters if you can get a dog to listen and obey your commands they can go to a forever home and be loving dogs.

Harry Redman, 15232 Shannondale Road, Purcellville, VA, stated that he lives next door to the applicants. He said he has never had a sleepless night and he has lived there for over two years. He said that during the day if someone approaches their fence or they feel threatened they will bark. He said he has never deemed their barking to be excessive and there has never been a time where he felt the need to call and complain. He said the road that he lives on is a dead end road and there has never been traffic on the road where it has created any problems. He said regarding property values the Applicants lived there before he and his wife moved there and were already running 3 Dog Farm and he and his wife had no issues about moving in. He said from a general neighbor perspective when they moved in Gina and Mike welcomed them and offered their assistance in any way. He said he would consider them good Samaritans.

Teresa Miller Welch, 1430 Old Winchester Road, Boyce, VA, she said she lives across the street from this proposal. She said she just learned that the Applicant has had only two complaints in nine years and she was impressed until she found out they only had three rescue dogs. She stated that the Great Pyrenees Rescue, of

which Ms. Schaecher is the secretary, has a website and on the website it states that the Great Pyrenees is probably the most powerful dog in existence. She remarked that the website also states when considering adopting a Great Pyrenees can you and your neighbors tolerate barking. She stated that it also says that all Great Pyrenees bark and because of this they are given away and put into kennels. She also stated that if Great Pyrenees are not corrected of barking at a young age it can become a habit and is the number one reason they are given away as adults. She explained that the Great Pyrenees consider their territory as far as they can see. She said if this proposal is going to be sitting on the knoll at the highest point in our area she considers this will be a beacon for the dogs to be able to see and for all of us to hear. She said that she feels this will have an impact on five homes within approximately 1500 feet. She said the web site also asks if the Great Pyrenees is the right dog for you. She stated that the answer is no and that it is not the right dog for this neighborhood.

Bruce Welch, 1430 Old Winchester Road, Boyce, VA, stated that he lives directly across from this proposed request. He stated that he is a veterinarian and that he does not intend to disparage any breed of dog and any kind of kennel. He said his issue is how it is going to be done and the unknown thereof. He said this is a small rural community and a facility such as this is a wonderful idea but not in this neighborhood. He said he feels it should be in a type of business zoning. He said the types of things they are talking about doing are a great idea but the kennel would be better in an area that does not have homes so close to the facility. He said he loves dogs and has dedicated his life to animals. He explained that this is a great project but he just feels this is not the right place for this facility.

Robert Sell, 1321 Old Winchester Road, Boyce, VA, stated that he is an adjoining property owner. He said he speaks in opposition to this request. He said the septic system designed for a one bedroom home and commercial kennel has a capacity of 500 gallons a day. He said daily requirements, training classes, special events, fund raisers, and commercial traffic could easily exceed the designed capacity. He stated that well pollution due to the failure of this system which is located on a higher elevation than his well which serves the house is a concern due to the large amount of limestone and karst geology of the land. He stated that the location of the well on this site causes him to wonder if this site and their well which is shallow could be drawing from the same underground stream. He said that water requirements for a forty dog kennel which may or may not be at capacity could cause the wells to go dry. He stated that the safety of their livestock is another concern because dogs roaming loose can cause a lot of damage. He said there is a large number of livestock in this neighborhood. He stated that there are also children in this neighborhood and their safety and security is important. He said that that if just one dog escapes from the kennel, harming a child or an adult should be a concern to all of us and not be allowed in a residential community. He respectfully asks that the Commission not approve a Special Use Permit for this kennel.

Elizabeth Sell, 1321 Old Winchester Road, Boyce, VA, stated that she is an adjoining property owner. She said her family has owned their property for seventy years. She stated that she is speaking in opposition to this proposal. She said that Clarke County is a very strong advocate of Conservation Easement programs and this property is held in an easement program. She stated if the goal is to preserve and protect open space, forest and farm land she questions whether a commercial dog kennel is a compatible fit. She said that dogs are not defined as agricultural livestock in the Code of Virginia. She stated that the site location is on the most desirable site for agricultural production. She expressed that approving this proposal would be setting a dangerous precedent. She asked the Commission how this would be protecting open space and farm land by allowing a commercial kennel business to be located on property in easement. She stated that the easement program is being devoured. She said information given both publicly and privately has been misleading, evasive, and disingenuous and this causes her to be skeptical and distrustful. She said there are

more things they do not know than they know. She said there is the potential of well pollution, a dry well, damage to our livestock, noise, fund raising events, and property devaluation. She stated that this commercial dog kennel is not a proper fit for their residential/agricultural community. She said her biggest concern is this facility may not survive and they will be left living next to an abandoned, deteriorating dog kennel. She stated that this kennel is neither needed nor wanted and will not be a welcome addition as a neighbor. She respectfully requests that the Commission does not approve this application for a Special Use Permit.

A. R. Dunning, Jr., 1253 Ginns Road, Boyce, VA, he said he is a dog lover like everyone else in the room. He said that the county has turned down the most recent dog kennel application in this County because 95% of the people were against it. He said that the noise factor from the dogs will be there. He stated that he has a dog and he makes a lot of noise too. He stated that the long and short of it is we have to protect the people who live in this community and if 95% of them are against it would be hard for a politician to go for it.

Cindy Anderson, 2746 Springsbury Road, Berryville, VA, she stated that she would like to point out that Gina Schaecher is her client and she is also her friend. She said that she has become involved with her because the Applicant became her client first. She said that she lives on Springsbury Road and that she has five acres and the Blue Ridge Hunt comes through her property. She said that she has a Blood Hound and a Golden Retriever and a fenced in back yard. She remarked that when the Hunt comes across she has about twenty-five hounds that come through her property and about fifteen horses with riders and a horn. She said we all sit on my back deck and watch them go through and at no point does she call and complain about them. She said they are her neighbors and they like what they do and I like what I do. She said that this proposal is on ninety-one acres in Clarke County and only three acres will pertain to the kennel. She said that everyone is calling it a commercial kennel. She stated that it is a kennel to house dogs that will be rehabilitated so that they are not put down. She said it is called a kennel because in Clarke County if you have dogs that are not yours and if they spend the night in your presence you have to have a kennel permit. She stated if that were not the case it would be called something else. She said the Applicant is good person and that Clarke County is a good county. She said the county has had a lot of changes, some good and some not so good. She stated that nobody likes change and nobody likes the unknown. She said you cannot make everyone happy and when you try to change your plan to accommodate everybody when little things come at you, it appears you are a moving target when in reality you are just trying to make everybody happy.

Matt Hoff, 278 Ginns Road, Boyce, VA, said that he and his family have owned property adjoining this proposed request for over seventy years. He said he is here today to speak in opposition to this request. He said that after speaking with two real estate agents he has been assured that by granting a Special Use Permit for this kennel it will devalue the fair market prices of adjoining properties thereby creating an impact to the financial well-being of the neighbors. He said that although this property appears to be rural there are twenty-five residences within a half of mile of the proposed site. He stated that dog noise, lighting and security are all major concerns that must be addressed since there will be only limited staff at the facility. He said that he is also concerned about the increase of commercial traffic on Old Winchester Road which he would like to remind the Commission is a Virginia Scenic By-Way with numerous blind hills. He stated that large pump and haul trucks removing dog waste, fund raisers, employee traffic, dog adoption traffic, are all recipes for increased motor vehicle accidents with the possibility of injury and loss of life. He said there are more unknowns than there are knowns about this proposed facility. He said he feels the applicant has changed her position on numerous issues of concern throughout this process which leaves him suspicious and skeptical about the success of this business and the Applicant's real intent. He said the most important

concern is allowing a commercial kennel animal shelter in AOC zoned land. He said it is a dangerous precedent to allow because it is clearly not in keeping within the Clarke County Comprehensive Plan with regards to the preservation of agricultural production open space land since dogs by definition are not considered agricultural livestock. He remarked that this kennel is not a welcome addition to this residential area. He said that he urges the Commission not to recommend this request.

Danielle Donohue, 165 Bellevue Lane, Boyce VA, stated that she and her husband are neighbors of this proposal. She said that she speaks for her and her husband and they oppose this proposal. She remarked that the two biggest reasons for this opposition are their two children. She explained that they walk and play in this area every day. She said that their children's safety is their utmost concern and they chose this area to live because of the distance from dangerous traffic and the area is agricultural in nature and has unspoiled peace. She said that the proposal is to rescue dogs and to rehabilitate them. She feels she does not believe multiple dogs with behavioral issues should be housed in a residential area. She stated that in all communications with the applicant it was said that there would be twenty dogs not forty-three dogs. She stated that the daily comings and goings of staff, volunteers and customers will undoubtedly deteriorate their private lane. She remarked that the Commission will hear from people that are in favor of this request but do not live in the area and will not be impacted by this proposal and exposed to the dogs living just beyond their front yard. She stated that the Applicant encouraged residents to contact the County Government and tell them that this proposal is good for the community and the animals. She said she finds no aspect of this proposal to be good for her neighbors and herself and nor does she think that a kennel which charges \$75.00 for a dog to stay the night is useful for the average resident. She asked the Commission to please protect their neighborhood that we call home.

Diane Senyitko, 918 Morning Star Lane, Boyce, VA, stated she that she lives behind the site of the proposed kennel. She asked the Commission not to approve this request for a proposed dog kennel located in the middle of our peaceful neighborhood. She said that dogs are not livestock and kennels are not home. She stated that a commercial dog kennel does not belong in a residential farming community. She stated that the precedent this will set could be a challenge to current zoning and zoning in the future.

Suzanne Boag, 204 Hermitage Boulevard, Berryville, VA, she said she moved to Clarke County ten years ago and one of the things she has learned to love is the steadfast refusal not to cave to urban sprawl and commercialization. She said she cannot understand why Clarke County would allow a commercial kennel operation in the midst of a quiet farming community. She stated that she sees no benefit and the reasons are countless, noise, traffic, waste removal, etc. She remarked that an operation like this does not belong in an area like this and will also drop the property value to the neighbors in this community. She stated it takes people to control sprawl and she urges the Commission to vote no. She said let's not Loudoun Clarke.

Alain Borel, 692 Old Winchester Road, Boyce, VA 22620, he stated that he has a Special Use Permit for a B & B which has been established for about fifteen years. He said he is very much against this proposal moving into his neighborhood which is about one half of a mile away. He stated that his neighbor who lives across the street from him has a Great Pyrenees. He said that his neighbor is very nice and the dog is really beautiful but he barks all the time like two to three hours in a row. He remarked that he is aware that the applicant is planning on closing at 9:00 p.m. but from 6:00 a.m. or 7:00 a.m. until 9:00 p.m. all you will hear are those dogs barking. He said it is really annoying when he cannot sit on his back deck because of the dogs barking. He said he moved here thirty-three years ago and he follows the rules of Clarke County and

he believes in Clarke County. He stated that once these dogs start barking every dog in the neighborhood will start barking. He said he does not think this is what we need in Clarke County.

Bob Yanniello, 1308 Old Winchester Road, Boyce, VA, he stated that he is opposed to this plan. He said he has lived in Clarke County for about thirty years. He remarked that he has lived at his current address for twenty-two years which is directly north of Robert and Elizabeth Sell and the proposed property for the kennel. He said he did something similar to this about seventeen years ago when he wanted to put in a business in the County. He said that it passed but the neighbors did not want the business in Clarke County. He stated he decided to move the business to Frederick County and everything worked out fine.

Jimmy Hill, 1776 Old Winchester Road, Boyce, VA, he stated that he and his wife live in the area on eighty-eight acres. He remarked that the problem with speaking at a public hearing is being one of the later citizens to speak and everyone has already said what he was going to say. He said that in listening to all the citizen comments it seems that the overwhelming sentiment is that this is going to radically change the character of that neighborhood. He said that they moved to this area because it is rural but not isolated as they are in a neighborhood. He said that he is opposed to this proposal and thinks it would be a mistake and he hopes the Commissioners vote against it.

Lori White, 147 Peyton Road, Sterling, VA, she said that she knows the Applicant on a professional basis. She stated that she has taken her dog to 3 Dog Farm on dozens of occasions for daycare and when she has gone on vacation. She said that her dog, which is about twenty-three pounds, fit right in with the applicant's Pyr Pack after Ms. Schaecher's careful introduction. She stated that her dog's favorite place besides being with her is 3 Dog Farm playing with the big boys. She said he always comes home content and exhausted and with a goody bag. She remarked that in all the many times she has taken her dog there she has never heard or seen any crazed barking dogs. She explained that everything is always in control and it is always because of the management and the trainers that Ms. Schaecher has hired and the dogs are very happy. She spoke on a personal level stating that she has known Ms. Schaecher for five years and she has put her heart and soul into these animals and this project. She said you will not find anyone with a bigger heart that is willing to give everything for the welfare of the animals. She explained that she feels that this project deserves to move forward and the community will be well served by it.

Betsy Hill, 1776 Old Winchester Road, Boyce, VA, she said that her property is about one half a mile across the road from the proposed site. She stated that she is opposed to this request. She said some of the reasons are the noise caused by the dogs barking and also the increased traffic it will cause. She said when they first moved to Clarke County in 1996 they lived on a farm in White Post and there was an animal rescue type shelter near there. She said they lived there for seven months and at the time they had two rescue dogs that were outside and when the dogs would bark at the shelter their dogs would start barking. She said that they moved here for the rural peaceful life of the neighborhood.

Barbara Byrd, 3836 Lord Fairfax Highway, Berryville, VA, she stated that she is speaking as a Director of the Clarke County Humane Foundation. She said when they were permitted to construct the Clarke County Animal Shelter on ten acres they were recommended by the Planning Commission or the Planners to build a totally enclosed shelter. She said that meant no outside runs or exercise yards. She said that the dogs were only allowed outside the shelter on a leash with a handler for walking. She stated that they did follow this through and spent a lot of money on this shelter. She said it is a very well done shelter that the State Veterinarian holds very high as a wonderful example of a private shelter that they lease to the County for \$1.00 a year. She said they completed this shelter with radiant heat in the floors so the dogs would be

warm in the winter time. She stated that they put air conditioning in there because it had to be enclosed. She said they put special noise reduction features up in the ceiling and all around. She stated they did have one modification and that was a small concrete pen behind the shelter. She said that dogs are allowed there one at a time while their runs are being cleaned and that had to be resurfaced because the State Veterinarian said it was too rough for the dogs' feet. She stated that it is still concrete so it can be maintained in a sanitary manner. She said she has one question for the Commission and that is what has changed.

Rod DeArment, 409 Bellevue Lane, Boyce, VA, stated that he strongly opposes this request. He urges the Commission to make a negative recommendation to the Board of Supervisors. He said that in considering this application the Commission must determine whether the project is detrimental to public health, safety and general welfare. He said based on the testimony this morning the Commission has ample record to determine that the project is detrimental in all three categories. He said that while he is concerned about all three categories he would like to focus on the grave danger of adding commercial traffic to Bellevue Lane. He stated that Bellevue Lane was originally an internal farm road. He said it was only slightly improved when the farm was subdivided. He stated that it is a one lane gravel road intended to serve only a few residents. He stated that on the rare occasion that one encounters another car one of the drivers has to pull over. He said that on much of the road there is a drop off and it makes it difficult. He stated that dumping a significant amount of commercial traffic on this lane will cause a serious safety risk. He said he believes this proposal should be denied but if it does move forward it should be approved with conditions. He feels the entrance for the proposal should be moved to the beginning of Bellevue Lane and that the covenant holders can meet with the Applicant to review these covenants before the next meeting. He submitted for the record a petition signed by neighboring residents against this proposal.

Peggy Bowers, 8604 Mount Zephyr, Alexandria, VA, stated that she has been friends with Ms. Schaecher for about eleven years. She said that she and Ms. Schaecher share a passion for dogs and rescue. She said that Ms. Schaecher has always been a responsible rescuer and pet owner and more than that a responsible neighbor. She said that she has spent many weekends at 3 Dog Farm with her dogs, maybe a couple of rescues, and Ms. Schaecher's pack of six and it has only been quiet and peaceful. She said that as rescuers it is our responsibility to be good neighbors and to open the hearts and minds of those who adopt. She stated that the last thing Ms. Schaecher wants to do is alienate any of her neighbors.

David Plummer, 8604 Mount Zephyr, Alexandria, VA, stated he is married to Peggy Bowers. He said that they have known Mr. and Mrs. Schaecher for over a decade. He said that they have collaborated with them on many events such as the Canine Carnival. He stated that he appreciates all the concerns and comments that have been brought up by the neighbors. He said there is always a lot of concern in an unknown situation and what one is getting into. He spoke of a similar situation in which he works with Lost Dog and Cat Rescue Foundation in Sumerduck, Virginia. He said that it is a true kennel facility and they have about one hundred twenty dogs. He said that they followed the rules as they are in a similar rural residential area in Sumerduck. He said they followed the rules, they put in buffers and fencing and anything that they asked them to do to meet the requirements. He said now everyone is happy and at the end of the day there are no complaints and everyone gets along. He said he is testifying in favor of this request.

James and Dot Royston, residents in the area, provided a letter of opposition for this request. Sharon Carroll sent an e-mail supporting this request. David and Susan Jones, King George, VA sent an e-mail supporting the request. Margaret Hosteler, 652 Tub Mill Run Road, West Salisbury, PA sent an e-mail supporting the request.

Commissioner McFillen asked Mr. Stidham about the 100 day rule.

Mr. Stidham stated that he had spoken to Bob Mitchell, County Attorney, and he advised that the Planning Commission has 100 days to review a request before the Commission has to do a recommendation to the Board of Supervisors. He said the actual starting date for the proposal would be the first meeting that the Planning Commission heard this request which would have been on September 6, 2013. He said based on that time frame it would bring the time date to December 15, 2013 and that means it would allow the Commission to hear it at the next regular meeting of the Commission on December 6, 2013.

There being no further public comments, Chair Ohrstrom called for a motion.

The Commission voted to defer action on the Special Use Permit and Site Plan and continue the public hearing for one month until the December 6, 2013 Planning Commission meeting for review of the following technical and special use permit issues:

1. Outdoor lighting;
2. Landscaping details
3. Sound-proofing design for kennel building;
4. Details of special events;
5. Details concerning condition #9; and
6. Details of training classes for humans, including septic concerns.

**Yes:** Bouffault (moved), Brumback, Caldwell (seconded), Kreider, Kruhm, McFillen, Ohrstrom, and Turkel

**No:** Steinmetz

**Absent:** Staelin

**Abstained:** Nelson

Commissioner Nelson returned to the meeting.

### **Board/Committee Reports**

#### **Board of Supervisors (John Staelin)**

Mr. Stidham stated that the public hearing has been set for the Text Amendment regarding maximum lot size exceptions and they have set a Comprehensive/Transportation workshop meeting for November 13, 2013 at 7:00 p.m. He said hopefully they will go over any issues they may have and the public hearing can be set for both of these items at their next regular meeting on November 19, 2013.

#### **Sanitary Authority (John Staelin)**

No report.

#### **Board of Septic & Well Appeals (John Staelin)**

No report.

#### **Board of Zoning Appeals (Anne Caldwell)**

No report.

#### **Historic Preservation Commission (Douglas Kruhm)**

Commissioner Kruhm wanted to remind everyone that we have two meetings coming up. He said one



is November 6, 2013 at 7:00 p.m. which will be to review the Chapel Historic District and the regular meeting of the Historic Preservation Commission is scheduled for November 21, 2013 at 4:00 p.m.

**Conservation Easement Authority** (George Ohrstrom, II)

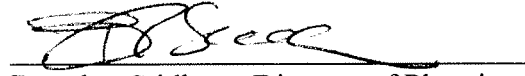
Commissioner Ohrstrom said we have closed on several big easements and we are very happy about that. He said we continue to preserve property at a steadfast rate.

**Other Business**

Chair Ohrstrom asked who would like to be on the Economic Development Committee. He stated that Commissioner Steinmetz said he would come when he could. Commissioner Bouffault said she would like to be on the Committee. Commissioner Caldwell stated that Commissioner McFillen wants to be on it and Commissioner Staelin will be on the Committee as the Board Liaison. Mr. Russell said citizens for the EDAC are John Milleson, Bryan Conrad and Christy Dunkle, and other members of Staff and Chair Ohrstrom said he would attend come when he can.

There being no further business to discuss the meeting was adjourned at 11:58 a.m.

  
George L. Ohrstrom, II, Chair

  
Brandon Stidham, Director of Planning

Minutes prepared by Debbie Bean, Recording Secretary